MT LEGISLATIVE HISTORY

Chapter 199 1963

Bill H _____ S 103 Original bill & hist. X no C

H. Committee on Ways & Means S. Committee on Taxation

Hearing Date(s) _____ ✓ C Hearing Date(s) _____ C

In 2/8 C In 1/2 C

_____ C 1/24 ✓ C

_____ C _____ C

Date Out 2/27 ✓ C 1/29 ✓ C

Did this bill originate in an interim committee? ___Yes ✓ No

Committee _____ Report _____

January 24,

MINUTES OF MEETING OF TAXATION COMMITTEE

A meeting of the Committee on Taxation was called to order by the Chairman, Senator Manning at 12:00 noon, January 24th, 1963 in Room 423 of the State Capitol Building. A quorum was present.

Senator McGowan was absent.

Senate Bill No. 101 (relating to nonresident taxpayers personal income tax and deductions) was discussed by the committee. Senator Brenner, the author of the bill, discussed it to the members, stating that is an adjustment in the income tax due to non-resident taxpayers. He stated that adjusted gross income from sources an and out of this state shall be allocated and apportioned under rules and regulations prescribed by the state board of equalization. Also in the case of a taxpayer other than a resident of this state, the deductions allowed in computing net income shall be pro-rated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

Motion was made by Senator Brenner, seconded by Senator Goodwin, that Senate Bill No. 101 be recommended Do Pass. Motion carried unanimously.

Senate Bill No. 102 (relating to personal income tax, to require the filing of income tax returns upon certain conditions and to provide for the election of filing joint returns and amending the proeceure for filing returns) was also discussed by Senator Brenner, the author of the bill.

Motion was made by Senator Brenner, seconded by Senator Rostad, that Senate Bill 102 be recommended Do Pass. Motion carried unanimously.

Senate Bill 103 (relating to personal income tax returns as relates to nonresident officers of corporations) was discussed by the committee, but action was deferred until the members had had a chance to study the bill. Chairman Manning appointed a Sub-Committee consisting of Senators McKeon, Nees and Brenner to study the bill.

Senate Bill No108 (relating to providing tax exemption of buildings of non-profit organizations or societies) was explained by Senator Goodwin. He stated that these various veterans' organizations, especially in the smaller towns, have buildings and other groups use them as a meeting place. The organization that owns the building has to pay the taxes on them. He stated that if the buildings have bars in them they would continue paying taxes on the bar, but the rest of the building should not be [illegible] use

[illegible] rate on per square feet to assess the building.

[illegible]as made by Senator McKeon, seconded by Senator Brenner, that [illegible]Bill 108 be recommended Do Pass. Motion carried unanimously.

[illegible]n Senate Bill 28 was deferred until the next meeting. Chairman [illegible] appointed Senator McKeon to check into this bill and get [illegible]formation.

Thirty-eighth Legislative Assembly

MINUTE BOOK

SENATE COMMITTEE ON

TAXATION

Dave M. Manning, Chairman

Members

Dave M. Manning, Chairman	Treasurer
Stanley Nees, Vice Chairman	Roosevelt
Gordon McGowan	Chouteau
John L. McKeon	Deer Lodge
Lester Goodwin	Broadwater
John Melcher	Rosebud
J. S. Brenner	Beaverhead
Carl Rostad	Meagher
Robert Thomas	McCone

Secretary: Dorothy Moe

January 29,, 1963

MINUTES OF MEETING OF

TAXATION COMMITTEE

A meeting of the Taxation Committee was called to order by Chairman Manning on January 29, 1963, at 12:15P.M., in Room 423 of the State Capitol Building. A quorum was present.

Senate Bill 103 (relating to personal income tax returns as relates to nonresident officers of corporations) was explained to the committee by Senator McKeon. He stated that he had received a letter from James Felt and Robert Fund with some proposed amendments to the bill. He read the letters to the committeemembers.

Motion was made by Senator McKeon, seconded by Senator Brenner that Senate Bill No. 103 be recommended Do Pass. Before the motion carried, Senator Brenner asked about the effective date clause in the bill which is on passage and approval.

Motion was made by Senator Brenner, seconded by Senator Goodwin, that Senate Bill 103 be amended by deleting on page 8, lines 4 and 5 of the bill, Section 4 in its entirety. Motion carried unanimously.

Motion was made by Senator Brenner, seconded by Senator Goodwin, that Senate Bill 103, as amended, be recommended Do Pass. Motion carried unanimously.

House Bill No. 8 (provide that the cigarette excise tax is a direct tax on consumer) was brought before the committee. Chairman Manning stated that Representative Murray, the author of the bill, probably would like to appear before the committee at a later date. Motion or action was deferred on this bill.

Senate Resolution No. 4 was discussed briefly by the committee, but action was deferred until Senator McGowan had a chance to explain the bill.

Senate Memorial No. 1 was discussed by the committee. This bill relates to requesting that the Governor and State Board of Equalization remove the two mill state property tax levy)was discussed.

January 29, 19

MR. PRESIDENT:

We, your Committee on TAXATION

having had under consideration SENATE Bill No. 103

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 84-4903, M. 1947 RELATING TO PERSONAL INCOME TAX, DELETING THE PROVISIO TO TAXABILITY OF NONRESIDENT OFFICERS OF CORPORATIONS; AMENDIN SECTION 84-4910 R.C.M. 1947 TO PROVIDE FOR AN ADDITIONAL EXEMP TO INCOME TAX ONLY IN THE EVENT A SEPARATE RETURN IS MADE BY T PAYER AND SPOUSE HAS NO GROSS INCOME AND IS NOT THE DEPENDENT ANOTHER TAXPAYER; AMENDING SECTION 84-4956 R.C.M. 1947 TO PROV FOR EXAMINATION OF INCOME TAX RETURNS, HEARINGS AND RETURN OF OVERPAYMENTS AT SIX PER CENT (6%) PER ANNUM UNDER CERTAIN COND

Respectfully report as follows: That Senate Bill No. 103

Be amended as follows:

Amend Original Senate Bill No. 103 on page 8, lines 4 and 5 by deleting Section 4 in its entirety.

And as amended:

January 29, 19 63

mittee on TAXATION

consideration SENATE Bill No. 103

CT ENTITLED: "AN ACT AMENDING SECTION 84-4903, R.C.
O TO PERSONAL INCOME TAX, DELETING THE PROVISION AS
F NONRESIDENT OFFICERS OF CORPORATIONS; AMENDING
R.C.M. 1947 TO PROVIDE FOR AN ADDITIONAL EXEMPTION
NLY IN THE EVENT A SEPARATE RETURN IS MADE BY TAX-
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R; AMENDING SECTION 84-4956 R.C.M. 1947 TO PROVIDE
OF INCOME TAX RETURNS, HEARINGS AND RETURN OF
SIX PER CENT (6%) PER ANNUM UNDER CERTAIN CONDITIONS."

as follows: That Senate Bill No. 103

ollows:

Senate Bill No. 103 on page 8, lines 4 and 5 by
m 4 in its entirety.

WAYS AND MEANS COMMITTEE

CHAIRMAN.....ELMER SCHYE
VICE-CHAIRMAN.....FORREST H. CRUM

MEMBERS

FRED O. BROEDER, JR.
WARREN DAVIS
ARNOLD H. FALKENSTERN
WARREN W. HARPER
JOHN E. HEALY
OSCAR S. KVAALEN
JACK D. REHBERG
RICHARD D. SMILEY
WILLIAM E. SPAHR
C. G. STRANAHAN
EDWARD A. SWANZ
THOMAS P. TRACY
DR. S. A. WEEKS

Secretary.....Aline S. Conway

Subsection has been revised to reduce the rate of interest on deficiency assessments from 1% per month to 6% per annum, consistent with the rate prescribed in most state income tax laws and the Internal Revenue Code. The amendments to Section 84-4922 extend the time from 3 to 5 years within which a taxpayer may apply for revision of his assessed tax liability. The material deleted has been eliminated because of confusion as to its meaning and implications. The proposed changes in subsection (1) of Section 84-4924 reduce the interest rate on delinquent tax from 1% per month to 6% per annum. The proposed changes would also modify the 5% delinquency penalty by adding language providing that said penalty shall apply unless the taxpayer establishes that the delinquency was due to reasonable cause and was not due to neglect.

Senate Bill 103 was introduced to the committee. Mr. Fulton stated that the purpose of repealing subsection (b) of Section 84-4903 is to eliminate an administratively unworkable law of doubtful validity. There is no valid reason to single officers of a corporation out from other nonresident employees who may well receive equal or higher pay and whose salary or wages may or may not be paid out of earnings derived from the employing corporations operations in Montana. Jurisdiction to tax is dependent upon jurisdiction over the person or the source of his income. The objective of the amendments to Section 84-4910 is to plug a "loophole" giving rise to an argument that the law permits husband and wife filing separate returns to claim each other as an exemption.

Amendments to Section 84-4956 are for the purpose of clearly indicating that all overpayments of income tax are refundable under this section and also to provide for refunding of overpayments of penalty or interest.

Discussion followed. Mr. Harper asked permission of the Chairman to go over Senate Bill 101 with an attorney. Permission granted.

A motion was made by Mr. Stranahan, seconded by Mr. Spahr, that Senate Bill 101 be concurred in. Motion carried. It was unanimously agreed that Senate Bill 101 be sent to the Appropriations Committee and Mr. Spahr stated that he would make such a move from the floor.

A motion was made by Mr. Kvaalen, seconded by Mr. Rehberg, that Senate Bill No. 103 be concurred in. Motion carried.

A motion was made by Mr. Rehberg, seconded by Mr. Swanz, that Senate Bill No. 103 be concurred in. Motion carried.

Senate Bill No. 28 was introduced to the committee for their action. Mr. Harper presented a proposed amendment to the bill. Discussion of the amendment followed. Mr. Healy made a motion, seconded by Mr. Tracy, to adopt the amendment to Senate Bill 28. Mr. Spahr objected to the amendment on the grounds that it did not

relief shall arise or be enforced against any person or organization by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

Use for medical research—identity confidential.

Section 2. **Information to be used only for medical research—Identity of persons treated not to be revealed.** The state board of health, the Montana medical association, any of its allied medical societies, any committees of nationally organized medical societies or research groups, or any in-hospital staff committee shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing infant morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances.

Information deemed privileged communication.

Section 3. **Information furnished deemed privileged communication.** All information, interviews, reports, statements, memoranda, or other data furnished by reason of this act and any findings or conclusions resulting from such studies are declared to be privileged communications which may not be used or offered or received in evidence in any legal proceedng of any kind or character, and any attempt to use or offer any such information, interviews, reports, statements, memoranda or other data, findings or conclusions or any part thereof, unless waived by the person treated or his legal representative, shall constitute prejudicial error resulting in a mistrial in any such proceeding.

Effect of unauthorized use.

Approved March 7, 1963.

CHAPTER NO. 198

An Act to Permit Reception of Nonresident Insane to to State Hospital Pending Return to State of Residence

and Repealing Section 38-118, Revised Codes of Montana, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Nonresident insane—stay in state hospital.

Section 1. An insane person, nonresident of this state, may be received into the Montana state hospital for a period not to exceed thirty (30) days pending return to the state of his residence.

Repealing clause.

Section 2. Section 38-118, R. C. M. 1947, is hereby repealed.

Approved March 7, 1963.

CHAPTER NO. 199

An Act Amending Section 84-4903, R. C. M. 1947, Relating to Personal Income Tax, Deleting the Provision As to Taxability of Nonresident Officers of Corporations; Amending Section 84-4910, R. C. M. 1947, to Provide for an Additional Exemption to Income Tax Only In the Event a Separate Return Is Made By Taxpayer and Spouse Has No Gross Income and Is Not the Dependent of Another Taxpayer; Amending Section 84-4956, R. C. M. 1947, to Provide for Examination of Income Tax Returns, Hearings and Return of Overpayments at Six Per Cent (6%)Per Annum Under Certain Conditions.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That Section 84-4903, R. C. M. 1947, is amended to read as follows:

Income tax—nonresident.

"84-4903. **Tax on nonresident.** (a) A like tax is imposed upon every person not resident of this state which tax shall be levied, collected and paid annually, at the rates specified in section 84-4902, with respect to his entire net income as herein defined from all property owned and from every business, trade, profession, or occupation carried on in this state."

Amending clause.

Section 2. That Section 84-4910, R. C. M. 1947, is amended to read as follows:

Individual exemptions.

"84-4910. **Exemptions.** (a) Allowance of Personal Exemption. In the case of an individual, the exemptions

provided by this section shall be allowed as deductions in computing taxable income.

Taxpayer and spouse.

(b) Taxpayer and Spouse. An exemption of six hundred dollars ($600.00) for the taxpayer; and an additional exemption of six hundred dollars ($600.00) for the spouse of the taxpayer *if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.*

Aged 65 or more.

(c) Additional Exemption for Taxpayer or Spouse Aged Sixty-five (65) or More. (1) For taxpayer. An additional exemption of six hundred dollars ($600.00) for the taxpayer if he has attained the age of sixty-five (65) before the close of his taxable year.

(2) For spouse. An additional exemption of six hundred dollars ($600.00) for the spouse of the taxpayer *if a separate return is made by the taxpayer, and* if the spouse has attained the age of sixty-five (65) before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, *has no gross income and* is not the dependent of another taxpayer.

Blindness.

(d) Additional Exemption for Blindness of Taxpayer or Spouse. (1) For taxpayer. An additional exemption of six hundred dollars ($600.00) for the taxpayer if he is blind at the close of his taxable year.

(2) For spouse. An additional exemption of six hundred dollars ($600.00) for the spouse of the taxpayer *if a separate return is made by the taxpayer and* if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, *has no gross income and* is not the dependent of another taxpayer. For the purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(3) Blindness defined. For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that

the widest diameter of the visual field subtends an angle no greater than 20 degrees.

Dependents.

(e) Additional Exemption for Dependents. (1) In general. An exemption of six hundred dollars ($600.00) for each dependent:

(A) Whose gross income for the calendar year in which the taxable year of the taxapayer begins is less than six hundred dollars ($600.00), or

(B) Who is a child of the taxpayer and who (i) has not attained the age of nineteen (19) years at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student.

(2) Exemption denied in case of certain married dependents. No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"Child" defined.

(3) Child defined. For purposes of paragraph (1) (B), the term 'child' means an individual who is a son, stepson, daughter or stepdaughter of the taxpayer.

"Student" defined.

(4) Student and educational institution defined. For purposes of paragraph (1) (B) (ii), the term 'student' means an individual who during each of five (5) calendar months during the calendar year in which the taxable year of the taxpayer begins

(A) Is a full time student at an educational institution; or

(B) Is pursuing a full time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this paragraph, the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

"Dependent" defined.

(f) General Definition. For purposes of this section, the term "dependent" means any of the following individuals over half of whose support, for the calendar

year in which the taxable year of the taxpayer begins, was received from the taxpayer:

(1) A son or daughter of the taxpayer, or a descendant of either,

(2) A stepson or stepdaughter of the taxpayer,

(3) A brother, sister, stepbrother, or stepsister of the taxpayer,

(4) The father or mother of the taxpayer, or an ancestor of either,

(5) A stepfather or stepmother of the taxpayer,

(6) A son or daughter of a brother or sister of the taxpayer,

(7) A brother or sister of the father or mother of the taxpayer,

(8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer,

(9) An individual who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer, and is a member of the taxpayer's household, or

(10) An individual who

(A) is a descendant of a brother or sister of the father or mother of the taxpayer,

(B) for the taxable year of the taxpayer received institutional care required by reason of a physical or mental disability, and

(C) before receiving such institutional care, was a member of the same household as the taxpayer.

(g) Rules Relating to General Definition. For purposes of this section

"Brother," "sister," defined. (1) the terms "brother" and "sister" include a brother or sister by the halfblood.

Adopted child. (2) In determining whether any of the relationships specified in subsection (a) or paragraph (1) of this subsection exists, a legally adopted child of an individual shall be treated as a child of such individual by blood.

Marital status. (h) Determination of Marital Status. For purposes of this part

(1) The determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

(2) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

Proration of deduction—nonresident (i) Proration of exemption *deduction* in the case of a nonresident taxpayer

(1) The exemption *deduction* shall be prorated *according to* the ratio the *taxpayer's* Montana adjusted gross income bears to *his* federal adjusted gross income."

Amending clause. Section 3. That Section 84-4956, R. C. M. 1947, is amended to read as follows:

Overpayment—refund. "Section 84-4956. **Credits and refunds.** *If the board of equalization discovers from the examination of a return or upon claim duly filed by a taxpayer, or upon final judgment of a court, that the amount of income tax is in excess of the amount due, or that any penalty or interest was erroneously or illegally collected, the amount of the overpayment shall be credited against any income tax, penalty or interest, then due from the taxpayer, and the balance of such excess shall be refunded to the taxpayer.*

Limitation. *Effective with taxable years ending on or after December 31, 1959,* no such credit or refund shall be allowed or made after *five (5)* years from the *date prescribed by statute for filing the return,* unless before the expiration of such period a claim therefor is filed by the taxpayer, *or the board of equalization has determined the existence of the overpayment and has approved the refund or credit thereof.* Within six (6) months after *a* claim for refund is filed the state board of equalization shall examine said claim and either approve or disapprove it. If said claim is approved, the credit or refund shall be made to the taxpayer within sixty (60) days after the claim is approved; if the claim is disallowed, the state board of equalization shall so notify the said taxpayer and shall

Disallowance of claim—hearing.

grant a hearing thereon *upon proper application by the taxpayer.* If the board disapproves a claim for refund, review of the determination of the board may be had as otherwise provided in this chapter.

Interest.

Except as hereinafter provided for, effective with taxable years ending on or after December 31, 1962, interest shall be allowed on overpayments at the rate of six per cent (6%) per annum from the due date of the return or from the date of the overpayment (whichever date is later) to the date the board of equalization approves refunding or crediting of the overpayment. With respect to tax paid by withholding or by estimate, the date of overpayment shall be deemed to be the date on which the return for the taxable year was due. No interest

Election.

shall accrue on an overpayment if the taxpayer elects to have it applied to his estimated tax for the succeeding taxable year; nor shall interest accrue during any period the processing of a claim for refund is delayed more than thirty (30) days by reason of failure of the taxpayer to furnish information requested by the state board of equalization for the purpose of verifying the amount of the overpayment. No interest shall be allowed (a) if the overpayment is refunded within six (6) months from the

Exceptions.

date the return is due or the date the return is filed, whichever date is later; or (b) if the overpayment results from the carryback of a net operating loss; or (c) if the amount of interest is less than one dollar ($1.00). An overpayment not made incident to a bona fide and orderly discharge of an actual income tax liability, or one reasonably assumed to be imposed by this law, shall not be considered an overpayment with respect to which interest is allowable."

Approved March 7, 1963.

CHAPTER NO. 200

An Act Abolishing the Actions for Breach of Promise of Marriage and for Alienation of Affections and Repealing Section 17-319, R. C. M., 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Actions for alienation of affections abolished.

Section 1. All civil causes of action for alienation of affections of husband or wife are hereby abolished; provided, however, that this section shall not apply to causes of action which have heretofore accrued.

Actions for breach of contract to marry abolished—Exceptions—fraud and deceit—unjust enrichment.

Section 2. All causes of action for breach of contract to marry are hereby abolished; provided, however, that where a plaintiff has suffered actual damage due to fraud or deceit or a defendant has been unjustly enriched, the plaintiff may maintain an action for fraud or deceit or unjust enrichment and recover therein only the actual damage proved or for the benefit wrongfully obtained or restitution of property wrongfully withheld, where such action otherwise is maintainable under existing law.

No act done in state shall give rise to abolished actions.

Section 3. No act hereafter done within this State shall operate to give rise, either within or without this State, to any of the causes of action abolished by this Act. No contract to marry, which shall hereafter be made within this State, shall operate to give rise, either within or without this State, to any cause of action for breach thereof. It is the intention of this Act to fix the effect, status, and character of such acts and contracts, and to render them ineffective to support or give rise to any such causes of action, within or without this State.

Unlawful to file pleading.

Section 4. It shall hereafter be unlawful for any person, either as litigant or attorney, to file, cause to be filed, threaten to file, or threaten to cause to be filed in any court in this State, any pleading or paper setting forth or seeking to recover upon any cause of action abolished or barred by this Act, whether such cause of action arose within or without this State.

Contracts of settlement declared void.

Section 5. All contracts and instruments of every kind which may hereafter be executed within this State in payment, satisfaction, settlement, or compromise of any claim or cause of action abolished or barred by this Act, whether such claim or cause of action arose within or without this State, are hereby declared to be contrary to the public policy of this State and absolutely void. It

Unlawful to procure execution

shall be unlawful to cause, induce or procure any person to execute such a contract or instrument, or cause, induce or procure any person to give, pay, transfer, or deliver any money or thing of value in payment, satisfaction, settlement, or compromise of any such claim or cause of action, or to receive, take, or accept any such money or thing of value in such payment, satisfaction, settlement